

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)
)
Plaintiff,) **8:12CR344**
)
vs.)
)
RANDALL DAVID DUE,)
)
Defendant.)

This matter is before the court on the motion of defendant Randall David Due (Due) for a continuance of trial and for the issuance of subpoenas (Filing No. 384).

On May 19, 2014, Judge Bataillon committed Due to the custody of the Attorney General for the purposes of a competency examination pursuant to 18 U.S.C. § 4241 (Filing No. 382). As such, the trial scheduled for May 27, 2014, is canceled and will be rescheduled following a determination of Due's competency pursuant to 18 U.S.C. § 4247. Accordingly, Due's motion to continue trial is denied without prejudice.

Likewise, Due's request for subpoenas is denied without prejudice pending the determination of Due's competency. If determined competent to stand trial, subpoenas to testify at trial may be issued pursuant to Fed. R. Crim. P. 17(b) but only after an *ex parte showing* that the witness' presence is necessary for an adequate defense.

IT IS SO ORDERED.

DATED this 23rd day of May, 2014.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge